

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 225.6(1) and 2008 Iowa Acts, Senate File 2425, section 52, subsection 2(e), the Department of Human Services proposes to adopt Chapter 26, "Emergency Mental Health Crisis Services System," Iowa Administrative Code.

This chapter will implement an emergency mental health crisis services system. The purpose of the system is ultimately to provide a statewide array of time-limited intervention services to:

- Reduce escalation of mental health crisis situations,
- Relieve the immediate distress of persons experiencing a mental health crisis,
- Reduce the risk of persons in crisis harming themselves or others, and
- Promote timely access to appropriate services for those persons who require ongoing mental health services.

The system will be implemented through a competitive bidding process, and its scope will be limited to the extent of the legislative appropriation. For state fiscal year 2009, \$1.5 million has been appropriated for this purpose. The Department expects to issue a request for proposals in October 2008 to begin one or more pilot projects. Proposals may be submitted by a community mental health center or other accredited mental health service provider and may cover a service area of one or more counties.

These rules provide for four required services: telephone hotline services, mobile crisis services, walk-in crisis services, and crisis care coordination services. The rules describe requirements for providing and documenting the services. Services shall be provided to any person who appears to be in a mental health crisis or in a situation that is likely to develop into a mental health crisis if supports are not provided, regardless of the person's age, income, health coverage, or prior diagnosis.

These rules provide for the waiver of any requirement in this chapter when:

- Strict enforcement of a requirement would result in unreasonable hardship on the provider or on a consumer, or an alternative to a rule, including a new concept, method, procedure or technique, new equipment, new personnel qualifications or the implementation of a pilot project is in the interests of better consumer care or program management; and
- Granting the waiver would not diminish the effectiveness of the services provided by the program, violate the purposes of the program, or adversely affect consumers' health, safety, or welfare.

Any interested person may make written comments on these proposed rules on or before October 29, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These rules are intended to implement Iowa Code chapter 225C as amended by 2008 Iowa Acts, Senate File 2425, section 52.

The following amendment is proposed.

Adopt the following **new** 441—Chapter 26:

CHAPTER 26 EMERGENCY MENTAL HEALTH CRISIS SERVICES SYSTEM

PREAMBLE

This chapter is promulgated to establish standards, general provisions, requirements, and procedures for the operation of emergency mental health crisis services programs. This chapter relates only to programs providing emergency mental health crisis services. It is not intended to regulate other mental health service programs or other emergency service programs.

Emergency mental health crisis services shall be available to persons who are experiencing a mental health crisis or are in a situation likely to turn into a mental health crisis if supportive services are not provided.

The department shall issue contracts for emergency mental health crisis services programs. The department will determine contract specifications. Funding for emergency mental health crisis services is contingent on appropriations from the legislature.

441—26.1(225C) Definitions.

“Accreditation” means the approval granted by the department that indicates that an emergency mental health crisis services program meets the requirements of 441—Chapter 24.

“Commission” means the mental health, mental retardation, developmental disabilities, and brain injury commission established by Iowa Code section 225C.5.

“Community mental health center” means an organization operated under the authority of Iowa Code chapter 230A and accredited by the department under 441—Chapter 24.

“Consumer” means a person receiving emergency mental health crisis services from a program.

“Coordinated emergency mental health crisis services plan” means a plan prepared by an emergency mental health crisis services program to ensure availability of emergency mental health crisis services that are appropriate to the specific conditions and needs of the people in the geographic area in which the program operates.

“Crisis care coordination” means a service coordination and referral program component, including written working agreements with inpatient behavioral health units, to ensure that consumers are referred to mental health services and other supports necessary to maintain community-based living capacity after inpatient care.

“Crisis care coordinator” means a person who is designated to provide crisis care coordination for a consumer.

“Crisis intervention plan” means the same as defined in 441—24.1(225C).

“Department” means the Iowa department of human services.

“Emergency mental health crisis services” means a coordinated array of crisis services for providing a response to assist an individual adult or child who is experiencing a mental health crisis or who is in a situation that is reasonably likely to cause the individual to have a mental health crisis unless assistance is provided.

“Guardian” means the person or agency appointed by a court order to act as the guardian of a person or, in the case of a minor, means the legal guardian responsible for the minor.

“Mental disorder” means a condition listed in the Diagnostic and Statistical Manual of Mental Disorders IV-R (4th edition), published by the American Psychiatric Association, or in the International Classification of Diseases, 9th edition, Clinical Modification, ICD-9-CM, Chapter 5, “Mental Disorders,” published by the U.S. Department of Health and Human Services.

“Mobile crisis service” means a service that provides immediate, on-site, in-person mental health services for persons experiencing a mental health crisis. Mobile teams can operate out of a wide variety of locations, either centralized or distributed throughout the community, and can serve persons unknown to the mental health services system. Teams may specialize in services to adults or children exclusively, but often become involved in treating the entire family or other support system.

“Program” means an emergency mental health crisis services program as set forth in this chapter and accredited under 441—Chapter 24.

“Response plan” means the plan of action developed by program staff to assist a person experiencing a mental health crisis.

“*Telephone crisis services*” means a telephone response service that provides callers with immediate information, counseling, support, and referral and screens for situations that require an in-person response.

“*Walk-in crisis services*” means emergency mental health crisis services provided at one or more locations where a person can receive information and immediate, face-to-face counseling, support, and referral.

441—26.2(225C) Applicability. This chapter applies to an entity awarded a contract for provision of an emergency mental health crisis services program and to any subcontractors of the entity.

26.2(1) Entities that are eligible to apply for a contract include:

- a. A community mental health center,
- b. A provider approved in a waiver adopted by the commission to provide services to a county in lieu of a community mental health center,
- c. A unit of the department or other state agency,
- d. A county, or
- e. Any other public or private provider that meets the accreditation of approval standards for an emergency mental health crisis services provider.

26.2(2) If any service is provided under contract by another provider, the program shall maintain a copy of the contract.

441—26.3(225C) Program operations.

26.3(1) Scope and availability. A program shall provide emergency mental health crisis services 24 hours a day and 7 days a week to all persons in the geographic area served by the program who are experiencing a crisis and are in need of crisis mental health services, including children, adolescents, adults and older persons, regardless of income level or diagnosis.

26.3(2) Administrative requirements. The program shall:

- a. Be governed by an organizational chart and policies and procedures that clearly identify the staff persons responsible for the emergency service.
- b. Comply with accreditation standards in 441—Chapter 24.
- c. Work effectively with 911 and other local emergency services, including law enforcement and the courts.

26.3(3) Service delivery. The program shall:

- a. Coordinate crisis services across the behavioral health services continuum.
- b. Provide counseling, consultation and information and referral services both to individuals in distress (children, adults, and older adults) and to people calling on behalf of those individuals.
- c. Provide face-to-face contact for crisis intervention. Face-to-face contact for crisis intervention may be provided as a function of the organization’s outpatient program during regular hours of outpatient program operation, with an on-call system for face-to-face contact for crisis intervention at all other times.
- d. Provide immediate evaluation and mental health care to persons experiencing a mental health crisis.
- e. Provide telephone follow-up on mobile mental health crisis services.
- f. Provide recovery-oriented, person-centered services.
- g. Provide transport for treatment directly or arrange for the safe and considerate emergency transport of individuals in crisis.

441—26.4(225C) Plan for coordination of services. Each emergency mental health crisis services program shall prepare a written coordinated emergency mental health crisis services plan for providing coordinated emergency mental health crisis services within the counties the program serves. The written plan shall be submitted to the department for review and approval when the program contracts with the department and shall be updated annually thereafter.

26.4(1) The coordinated emergency mental health crisis services plan shall include a description of all of the following:

- a. The nature and extent of the emergency mental health crisis services needs in the counties served.
- b. The service area's overall system of care for people with mental health problems.
- c. The services the program offers.
- d. How the services to be offered by the program have been adapted to address the specific strengths and needs of the service area's residents.
- e. How individuals, families, and other providers and agencies can obtain program services.
- f. Criteria for selecting and identifying consumers who present a high risk for having a mental health crisis.
- g. The criteria and priorities the program applies in making decisions during the assessment and response stages.
- h. A process for developing, maintaining and implementing individualized crisis intervention plans on a consumer's behalf.
- i. The specific responsibilities, if any, which other mental health providers in the counties served will have in providing emergency mental health crisis services.
- j. The procedures for communicating with the central point of coordination designated for the county where the consumer resides, when central point of coordination involvement is necessary to coordinate:
 - (1) Service referrals, or
 - (2) Assistance in making the transition from one service to one or more services.
- k. The process to be used to:
 - (1) Ensure rapid communication between the program and the other providers and agencies, and
 - (2) Address issues around confidentiality and exchange of information.
- l. Any formal or informal agreements that have been made with other providers and agencies to receive or provide backup coverage.
- m. Any role the program may play in situations in which emergency commitment procedures are required.
- n. The agreements that the program has made with law enforcement agencies, hospital emergency rooms, or a mental health institute, including any written memoranda of understanding.

26.4(2) If an agreement or memorandum of understanding is used for psychiatric hospitalization, the coordinated emergency mental health crisis services plan shall:

- a. Outline the role program staff will have in responding to calls in which a person may be in need of hospitalization, including provision of on-site and telephone assistance.
- b. Describe the role staff will have in screening persons in crisis situations to determine the need for hospitalization.
- c. Provide a process for including the emergency mental health crisis services program in planning to support persons who:
 - (1) Are being discharged from an inpatient stay; or
 - (2) Will be living in the community under an involuntary commitment.

26.4(3) If a program provides emergency services in conjunction with substance abuse treatment services, child protective services or any other emergency services, the coordinated emergency mental health crisis services plan shall describe how the services are coordinated and delivered.

441—26.5(225C) Required services. A program shall provide directly or contract for the delivery of telephone crisis services, mobile crisis services, walk-in crisis services, and crisis care coordination services as described in this rule.

26.5(1) Telephone crisis service. A program shall operate a crisis telephone hotline either directly or through a contract between the program and another provider. The service shall:

- a. Be available 24 hours a day and 7 days a week.
- b. Be directed at achieving one or more of the following outcomes:

- (1) Immediate relief of distress in pre-crisis and crisis situations.
- (2) Reduction of the risk of escalation of a crisis.
- (3) Arrangements for emergency on-site responses when necessary to protect persons in a mental health crisis.
- (4) Referral of callers to appropriate services when other intervention or additional intervention is required.

26.5(2) *Mobile crisis service.* The program shall provide a mobile emergency mental health crisis service that provides on-site, in-person interventions for persons experiencing a mental health crisis. The service shall be available 24 hours a day, 7 days a week, and shall have the capacity to intervene quickly, day or night.

26.5(3) *Walk-in crisis service.* The program shall provide a walk-in service that provides unscheduled face-to-face support and intervention at an identified location or locations that is available for at least eight hours a day, five days a week. The service may be provided directly by the program or through a contract with another mental health provider.

26.5(4) *Crisis care coordination service.* The program shall provide a defined coordination and service transition program component, including working agreements with inpatient behavioral health units. The service shall ensure that a consumer who has given consent for crisis care coordination is referred to mental health services and other supports necessary to maintain community-based living capacity, including targeted case management as defined in 441—Chapter 90. When appropriate, emergency service staff may facilitate transfer of consumers to other mental health programs. The service shall be available eight hours a day, five days a week.

441—26.6(225C) *Optional services.* Programs may offer additional services, such as peer-to-peer telephone support and crisis stabilization services, that are designed to address needs identified in the coordinated emergency mental health crisis services plan, but the additional services may not be provided in lieu of the services required in rule 441—26.5(225C).

26.6(1) *Peer-to-peer telephone support.* Peer-to-peer telephone support is a service that provides non-crisis-oriented, supportive counseling to callers.

26.6(2) *Crisis stabilization.* Crisis stabilization provides individualized, short-term, intensive, community-based treatment and support to avoid the need for inpatient hospitalization. The service is intended for persons who would benefit from close monitoring and support with activities of daily living. Crisis stabilization may be provided in the consumer's home or in a location that can be staffed 24 hours a day during the period of crisis. Services can be offered from a few hours to several days, to several weeks if needed.

441—26.7(225C) *Consumer assessment and response planning.*

26.7(1) *Eligibility for services.* To receive emergency mental health crisis services, a person shall be in a mental health crisis or be in a situation that is likely to develop into a mental health crisis if supports are not provided.

26.7(2) *Written policies.* A program shall have written policies that describe all of the following:

- a. The procedures to be followed for:
 - (1) Assessing the needs of a person who requests or is referred to the program for emergency mental health crisis services, and
 - (2) Planning and implementing an appropriate response based on the assessment.
- b. Adjustments to the general procedures that will be followed when:
 - (1) A person referred for services has a sensory, cognitive, physical, or communication impairment that requires an adaptation or accommodation in conducting the assessment or delivering services; or
 - (2) A person's language or form of communication is one in which staff of the program are not fluent.
- c. The type of information to be obtained from or about a person seeking services.
- d. Criteria for determining:
 - (1) When emergency mental health crisis services are needed, and

- (2) What type of service should be provided.
- e. Procedures to be followed for referral to other programs when a decision is made that a person's condition does not constitute an actual or imminent mental health crisis.
- f. Procedures for obtaining immediate backup or a more thorough evaluation when the staff person making the initial contact requires assistance.
- g. Procedures for:
 - (1) Coordinating referrals,
 - (2) Providing and receiving backup, and
 - (3) Exchanging information with other mental health service providers in the county, including the development of crisis intervention plans for persons who are at high risk for crisis.
- h. Criteria for deciding when a situation requires:
 - (1) A face-to-face response,
 - (2) The use of mobile crisis services,
 - (3) Stabilization services, if available, or
 - (4) Hospitalization.
- i. If the program dispenses medication, procedures governing the prescription and administration of medications to consumers and for monitoring the response of consumers to their medications.
- j. Procedures for collecting and recording specific indicators of service effectiveness.

26.7(3) Initial contact. During an initial contact with a person who may be experiencing a mental health crisis, staff of the program shall gather sufficient information, as appropriate and possible given the nature of the contact, to assess the person's need for emergency mental health crisis services and to prepare and implement a response plan. This information shall include, but not be limited to, any available information regarding:

- a. The person's location, if the contact is by telephone.
- b. The circumstances resulting in the contact with the program, including:
 - (1) Any events that may have led up to the contact,
 - (2) The apparent severity of the immediate problem, and
 - (3) The potential for harm to self or others.
- c. The primary concerns of the person in crisis or a person making the initial contact on behalf of the person in crisis.
- d. The person's mental status and physical condition, including:
 - (1) Any over-the-counter, prescription or illicit drugs the person may have taken,
 - (2) Prior incidents of drug reaction or suicidal behavior, and
 - (3) Any history of the person's abuse of alcohol or other drugs.
- e. If the person is threatening to harm self or others:
 - (1) The specificity and apparent lethality of the threat, and
 - (2) The availability of the means to carry out the threat, including the person's access to any weapon or other object that may be used for doing harm.
- f. If the person appears to have been using alcohol or over-the-counter, prescription or illicit drugs, the nature and amount of the substance ingested.
- g. The names of any people who are or who might be available to support the person, such as friends, family members, or current or past mental health service providers.

26.7(4) Determination of need and response plan. Based on an assessment of the information available after an initial contact, staff of the program shall determine whether the consumer is in need of emergency mental health crisis services and shall prepare and implement any necessary response.

- a. If the person is not in need of emergency mental health crisis services but could benefit from other types of assistance, staff shall, if possible, refer the person to other appropriate service providers in the community.
- b. If the person is in need of emergency mental health crisis services, staff of the program shall:
 - (1) Prepare and initiate a response plan consisting of services and referrals necessary to reduce or eliminate the person's immediate distress, and
 - (2) De-escalate the present crisis.

- c. The response plan shall be approved by a qualified mental health professional either:
 - (1) Before services are delivered, or
 - (2) Within five days after delivery of services, not including Saturdays, Sundays, or legal holidays.

26.7(5) Crisis care coordination. After a response plan has been implemented and the consumer has returned to a more stable level of functioning, program staff shall determine what follow-up contacts by program staff or referrals to other providers in the community are necessary to help the consumer maintain stable functioning.

a. If ongoing support is needed, the program shall provide coordination and referral with supports necessary for successful connection to services, unless the consumer does not consent to further services.

b. Follow-up and referral services may include but are not limited to the following:

(1) Contacting the consumer's ongoing mental health providers or case manager, if any, to coordinate information and services related to the consumer's care and support.

(2) If a consumer appears to have service needs relative to substance abuse, developmental disability, or other co-occurring disorders, contacting a service provider in the area of related need in order to coordinate information and service delivery for the consumer.

(3) Conferring with family members or other persons providing support for the consumer to determine if the response and follow-up are meeting the consumer's needs.

(4) Developing a new crisis intervention plan or revising an existing plan to better meet the consumer's needs based on what has been learned during the mental health crisis.

26.7(6) Crisis intervention plan. The program shall prepare a written crisis intervention plan for any consumer who is found to be at high risk for a recurrent mental health crisis under the criteria established in the coordinated community services plan.

a. A consumer's crisis intervention plan shall identify, to the extent possible:

(1) Potential personal psychiatric, environmental, and medical emergencies;

(2) Life situations that are likely to be problematic;

(3) Strategies and natural supports to enable the consumer to self-manage, alleviate, or end the crisis;

(4) How the consumer can access emergency services that may be needed.

b. A consumer's crisis intervention plan shall be developed in cooperation with the consumer and with the consumer's parents or guardian if required to give consent for treatment. Unless the immediate need of a crisis intervention plan to enhance the safety of the consumer does not allow time for consultation, the plan shall be written in consultation with mental health providers serving the consumer.

c. Whenever possible, the crisis intervention plan shall include all of the following:

(1) The name, address, and telephone number of the crisis care coordinator or case manager, if any, coordinating services for the consumer.

(2) The address and telephone number where the consumer currently lives, and the names of other persons with whom the consumer is living.

(3) The usual work, school, or activity schedule followed by the consumer.

(4) A description of the consumer's strengths and needs and of the important people or things in the consumer's life that may help staff to develop a rapport with the consumer in a crisis and to fashion an appropriate response.

(5) The names and addresses of the consumer's medical and mental health service providers.

(6) Regularly updated information about previous emergency mental health crisis services provided to the consumer.

(7) The diagnosis that is being used to guide treatment for the consumer, a list of the medications the consumer is receiving, and the name of the physician prescribing them.

(8) A description of the strategies that program staff should consider in helping to relieve the consumer's distress, de-escalate inappropriate behaviors, or respond to situations in which the consumer or others are placed at risk.

(9) A list of people who may be able to assist the consumer in the event of a mental health crisis.

(10) Any additional information deemed necessary by the provider.

d. The crisis intervention plan shall be reviewed and approved by a licensed mental health professional.

e. Program staff shall use a method for storing active crisis intervention plans that allows ready access in the event of a crisis arising, but that also protects the confidentiality of the consumer for whom a plan has been developed.

f. A crisis intervention plan shall be reviewed and modified as necessary, given the needs of the consumer.

26.7(7) Service notes. Program staff shall prepare service notes as soon as possible following a consumer contact. The service notes shall:

- a. Identify the consumer seeking a referral for emergency mental health crisis services;
- b. Describe the crisis; and
- c. Identify or describe all of the following, if applicable:
 - (1) The time, place, and nature of the contact.
 - (2) The person initiating the contact.
 - (3) The staff person or persons involved and any other persons present or involved.
 - (4) The assessment of the consumer's need for emergency mental health crisis services.
 - (5) The response plan developed based on the assessment.
 - (6) The emergency mental health crisis services provided to the consumer and the outcomes achieved.
- (7) Any provider, agency, or individual to whom a referral was made on behalf of the consumer experiencing the crisis.
- (8) Follow-up services provided on behalf of the consumer.
- (9) If there was a crisis intervention plan on file for the consumer, any proposed amendments to the plan in light of the results of the response to the request for services.
- (10) If it was determined that the consumer was not in need of emergency mental health crisis services, any suggestions or referrals provided on behalf of the consumer.
- (11) Any additional information deemed necessary by the provider.

441—26.8(225C) Consumer records. The program administrator is responsible for the maintenance and security of all consumer-related records.

26.8(1) Content. A program shall maintain accurate records of services provided to consumers, including:

- a. Service notes prepared,
- b. Crisis intervention plans, and
- c. Data tracking forms as required by the department.

26.8(2) Maintenance. A program shall maintain consumer records:

- a. For seven years for adult consumers.
- b. Until three years after the consumer reaches the age of majority, for consumers who are younger than 18 years old.

26.8(3) Confidentiality. Consumer records shall be kept confidential as required under state and federal law.

26.8(4) Disposition upon program closing. An organization providing emergency mental health crisis services under contract with a county or the department shall establish a written plan for maintenance and disposition of consumer records in the event that the program loses its accreditation or otherwise terminates operations. The plan shall include a written agreement with the county or department to have the county or department act as the repository and custodian of the consumer records for the required retention period or until the records have been transferred to a new program.

441—26.9(225C) Consumer rights.

26.9(1) Policies and procedures. All programs shall comply with state law on the rights of consumers. Programs shall be delivered in a culturally and linguistically competent manner.

26.9(2) *Conflict resolution.*

- a. A program shall establish a process for informal resolution of concerns raised by consumers, family members, and other agencies involved in meeting the needs of consumers.
- b. A program shall establish a grievance resolution system.
- c. A program shall inform consumers and their parents or guardians, where the consent of the parent or guardian is required for services, that they have the option of using either formal or informal procedures for resolving complaints and disagreements.

441—26.10(225C) Accreditation.

26.10(1) An organization, such as a private agency contracting with a county or counties to operate an emergency mental health crisis services program or a community mental health center or multiple community mental health centers, seeking to have an emergency mental health crisis services program accredited or reaccredited under 441—Chapter 24 shall submit a written application to the department. The application shall contain information and supporting documents required by the department.

26.10(2) Before application for reaccreditation, a program shall review its coordinated emergency mental health crisis services plan and adjust the plan based on information received through:

- a. Surveys under 441—Chapter 24,
- b. Consultation with other participants in the plan's development, and
- c. Comments and suggestions received from other resources, including staff, consumers, family members, other service providers and interested members of the public.

441—26.11(225C) Waivers. The department may grant a waiver of any requirement in this chapter when the department determines that granting the waiver would not diminish the effectiveness of the services provided by the program, violate the purposes of the program, or adversely affect consumers' health, safety or welfare. The department may not grant a waiver of consumer confidentiality or rights under this chapter or under other administrative rules.

26.11(1) *Applicable circumstances.* A program may request a waiver when one of the following applies:

- a. Strict enforcement of a requirement would result in unreasonable hardship on the provider or on a consumer.
- b. An alternative to a rule, including a new concept, method, procedure or technique, new equipment, new personnel qualifications or the implementation of a pilot project is in the interests of better consumer care or program management.

26.11(2) *Application.* An application for a waiver under this rule shall be made in writing to the Division of Mental Health and Disability Services, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, and shall specify all of the following:

- a. The requirement to be waived.
- b. The period for which the waiver is requested.
- c. Any alternative action which the program proposes.
- d. The reason for the request.

26.11(3) *Decision.* The department shall grant or deny each request for waiver in writing. The department may require additional information from the program before acting on the request for a waiver. The department's decision to grant or deny a waiver shall be final.

a. Notice of denial shall contain the reasons for denial. If a notice of a denial is not issued within 60 days after the receipt of a completed request, the waiver shall be automatically approved.

b. The department may:

- (1) Impose any condition on the granting of a waiver that it deems necessary.

(2) Limit the duration of a waiver. No waiver may continue beyond the period of accreditation without a specific renewal of the waiver by the department.

These rules are intended to implement Iowa Code chapter 225C as amended by 2008 Iowa Acts, Senate File 2425, section 52.